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10 December 2018

Environmental Protection Agency
Region 10, Office of Environmental Cleanup
Attn: Director Sheryl Bilbrey
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

Dear Director Bilbrey:

I received your letter dated October 4, 2018 and requested that my staff evaluate the request for an Engineering Evaluation/Cost Analysis (EE/CA) for the wharf and pier at Slip 36 located in Seattle Washington. As discussed in our letter sent to you on August 15, 2017, the Coast Guard (USCG) is currently conducting an investigation of Slip 36, as a special condition the EPA required for the USCG Section 404 Clean Water Act permit to repair pier 36B. The USCG agreed to conduct the investigation with the understanding that the EPA would allow the permit to proceed concurrently with the investigation.

To date the USCG has funded, contracted and proceeded with the EPA requested investigation, to include making the Scope of Work (SOW) available to the EPA for review and comment. The USCG has submitted its Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) to the EPA for comment and approval. The USCG will also provide a draft Sampling Investigation Report for EPA comment and approval prior to issuing a final report. This project represented a significant portion of the USCG's 2017 Environmental Compliance and Restoration budget, which demonstrates our commitment to working with the EPA in a constructive manner. The USCG also understands that the EPA would like the data as soon as possible, and so do we. However, Pier 36A is where the nation's two active Polar Ice Breakers (Healy and Polar Star) are refitted each year. The refits limit the window of time in which sampling can be conducted. We anticipated this and brought it to your attention in the August 2017 letter. The next available windows for sampling will occur in March and July of 2019.

To make sure that there is a clear understanding of what has occurred to date, this is what the USCG has completed:

We responded to your previous letter on August 15, 2017 agreeing to conduct the study. On September 18, 2017, we provided a draft SOW for EPA comment. Your comments were received on October 19, 2017 and the USCG addressed the comments on November 14, 2017. The contracting process was started after the SOW was approved by the EPA and went through internal USCG review and the funding process. The SOW was released under the USCG's Environmental Services A/E contract in December of 2017. The qualifications were received in January 2018. A firm was selected, and a proposal was received in February 2018. The contract was awarded on July 9, 2018. We provided a schedule to the EPA on August 13, 2018. The SAP was provided for EPA comment November 20, 2018 and the QAPP was delivered for review on December 10, 2018. Sampling is projected to start in March of 2019. Please also note that this sampling is being conducted by the USCG and its contractor, and not the Port. Our SAP and QAPP have not yet been reviewed or approved by the EPA as stated in your letter.

In your letter you indicated that the Port of Seattle was unable to collect data needed for the Supplemental Remedial Investigation and Feasibility Study (SRI/FS) for the Harbor Island Superfund Site (HISS). The USCG is unaware of any recent requests for sampling by the Port in Slip 36; please let us know when this request was made, and who it was made to so that we may determine why access to fully collect samples was not allowed. The USCG is willing to work with the Port to provide access to obtain data needed for the SRI/FS. The USCG was unaware that additional data would still be needed following the current investigation, because we were tracking along the EPA document entitled "Q&A Regarding the Need for a Removal Assessment at Pier 36" which included specific data that the EPA felt was needed. The SOW for the current project includes all of the items detailed in that document.

You have stated that it is essential for the EPA to ensure proper performance of the EE/CA and to provide direction for this work. At this time, the USCG does not believe that an EE/CA should be conducted by the USCG. The USCG is not a party to the HISS, and has acted in utmost good faith in submitting documents to the EPA for comment and approval to ensure EPA receives the documents it needs for the investigation. The basis for EPA's request to enter into an Administrative Agreement (AA) is unclear. Pier 36 is a federal facility under the jurisdiction and custody of the Coast Guard. While the facility is arguably located within the HISS, the Coast Guard is not a party to the HISS. To the extent hazardous substance contamination is present as a result of a release from the Coast Guard pier pilings or Coast Guard vessels, the site of the release is not on the National Priority List (NPL). Our understanding is that under these circumstances the Coast Guard is the lead agency for whatever level of response is required, based on CERCLA § 104 and Section(e) of Executive Order 12580. We would welcome clarifying information you have on this point.

As a practical matter, entering into an AA would not make the data collection a more timely procedure. Depending on the language of the AA the USCG may need to stop work on the current project, adjust the SOW and/or re-enter the contracting process. This would be further delayed as the USCG's current contractual vehicle for environmental consulting work has expired and the new contracts are still being negotiated. As the current project is already allowing the EPA to review and approve all documents and plans, and we are actively working to accomplish the data objectives, entering into an AA seems to be counterproductive to your goals and ours.

The USCG is willing to assist the EPA in allowing access for gathering data and coordinating with the Port. Please feel free to contact James Hall our project manager for this project at (510) 637-5593 or at James.C.Hall2@uscg.mil for technical questions on this matter.

Sincerely,



S.F. OSGOOD
Captain, U.S. Coast Guard
Commanding Officer